

1
2
3
4
5 UNITED STATES DISTRICT COURT

6 DISTRICT OF NEVADA
7 -oOo-

8 PATRICIA JACKSON, individually and)
9 as Special Administrator of the Estate)
of David C Collopy,)
10 Plaintiff,)
11 vs.)
12 UNITED STATES, et al,)
13 Defendants.)
14 _____)

2:09-CV-00223-PMP-GWF

ORDER

15 Before the Court for consideration is Defendants' fully briefed Motion for
16 Summary Judgment (Doc. #40), filed on May 5, 2010. On September 1, 2010, the
17 Court conducted a hearing regarding Defendants' motion.

18 In this action, Plaintiff Patricia Jackson, individually and as Special
19 Administrator of the Estate of David C. Collopy, seeks to hold Defendants, the
20 United States and Officer James Coates, liable for the shooting death of
21 David Collopy on February 9, 2007 within the Desert National Wildlife Refuge.

22 The only surviving witness to the events leading to the shooting death of
23 Collopy is Defendant Coates. As forcefully argued in Defendants' motion for
24 summary judgment, most of the circumstantial evidence in this case is consistent
25 with Defendant Coates verison of what occurred. Moreover, Defendant's cite to the
26 opinion of Las Vegas Metropolitan Police Department Homicide Detective Jason

1 McCarthy that everything at the scene of the shooting coincided with Coates' verison
2 of events. Plaintiff has, however, offered the testimony of Police Practices Expert
3 D.P. Van Blaricom who opines that physical evidence at the scene of the shooting,
4 including the location of shell casings, and the inability of Coates to recall certain
5 aspects of the incident are not consistent with Coates verison of the events.

6 This Court cannot on summary judgment evaluate the credibility of
7 witnesses such as Defendant Coates. Although the Court finds Defendants'
8 proffered verison of the events of February 7, 2007 to be more plausible then that
9 posited by Plaintiff, the Court finds that genuine issues of material fact exists which
10 can only be resolved by the trial jury assessing the credibility of Defendant Coates
11 and other witnesses that testify at trial.

12 **IT IS THEREFORE ORDERED** that Defendants' Motion for Summary
13 Judgment (Doc. #40) is **DENIED**.

14 **IT IS FURTHER ORDERED** that the parties shall file a Joint Pretrial
15 Order on or before October 8, 2010.

16
17 DATED: September 7, 2010.

18
19 
20 PHILIP M. PRO
United States District Judge

21
22
23
24
25
26